

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-44141

In re:

Thomas P. Harrigan and Juliana C.
Harrigan,

Debtors.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly appointed Chapter 7 trustee herein ("Trustee") moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on October 27, 2004, in Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and delivered not later than October 22, 2004 which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays) or filed and served by mail not later than October 18, 2004 which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on July 26, 2004. The first meeting of creditors was originally scheduled for August 27, 2004 and was continued by the Trustee. It has not yet been concluded.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.

6. A true and correct copy of Schedule C is attached hereto as Exhibit A.

7. Objection is made to the claimed exemption of a “riding mower” and a snow blower. The Debtors have a push lawnmower which they are also claiming as exempt. They are entitled to do so pursuant to *In re Irwin*, 232 B.R. 15 (Bankr. D. Minn. 1999). The “riding mower” is actually a garden tractor with a mower attachment. The Trustee does not object to the Debtor’s claimed exemption of their push lawnmower, but does object to the claimed exemption of the garden tractor with lawn mower attachment. The Trustee does not believe that a garden tractor with mower attachment and a snow blower are household appliances.

WHEREFORE, the Trustee requests an order of the Court:

1. Denying Debtor’s claimed exemption of a riding lawn mower and snow blower.
2. For such other and further relief as the court deems appropriate.

FULLER, SEAVER & RAMETTE, P.A.

Dated: October 5, 2004

By: /e/ Randall L. Seaver
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on October 5, 2004

/e/ Randall L. Seaver
Randall L. Seaver

In re THOMAS P. HARRIGAN,
JULIANA C. HARRIGAN

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☐ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- ☒ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Real Property</u>			
Lot 10, Block 3, Hidden Pines, Anoka County, Minnesota	Minn. Stat. §§ 510.01	32,500.00	250,000.00
<u>Household Goods and Furnishings</u>			
Household goods and furnishings	Minn. Stat. § 550.37(4)(b)	2,360.00	2,360.00
Tools-\$50, push mower-\$10, riding mower-\$200, snow blower-\$150	Minn. Stat. § 550.37(4)(b)	410.00	410.00
<u>Wearing Apparel</u>			
Wearing Apparel	Minn. Stat. § 550.37(4)(a)	200.00	200.00
Watch	Minn. Stat. § 550.37(4)(a)	10.00	10.00
Watch	Minn. Stat. § 550.37(4)(a)	5.00	5.00
<u>Interests in Insurance Policies</u>			
Equitable life insurance policy-cash value	Minn. Stat. § 550.37(23)	902.00	902.00
American Family life insurance policy-cash value	Minn. Stat. § 550.37(23)	5,024.00	5,024.00
<u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u>			
401(k)-\$10,740 (not property of estate) no value	Minn. Stat. § 550.37(24)	0.00	0.00
<u>Other Contingent and Unliquidated Claims of Every Nature</u>			
Actions pending for Social Security benefits-amount not settled..debtor claims as exempt amount allowable under statutory law	Minn. Stat. § 550.37(24) & 42 U.S.C.A. § 407	0.00	Unknown
Action pending for VA benefits-amount not settled..debtor claims as exempt amount allowable under statutory law	Minn. Stat. § 550.38	0.00	Unknown
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
1995 Cadillac Deville (213,000 miles)	Minn. Stat. § 550.37(12a)	2,000.00	2,000.00
1996 Chrysler Sebring	Minn. Stat. § 550.37(12a)	3,800.00	4,500.00

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-44141

In re:

Thomas P. Harrigan and Juliana C.
Harrigan,

UNSWORN CERTIFICATE OF SERVICE

Debtors.

I, Kari L. Fogarty, declare under penalty of perjury that on October 5, 2004, I mailed a copy of the following:

1. Notice of Hearing and Motion Objecting to Claimed Exemption;
2. Order (proposed)

by first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Thomas P. Harrigan
12340 Hummingbird Street NW
Coon Rapids, MN 55448

Juliana C. Harrigan
12340 Hummingbird Street NW
Coon Rapids, MN 55448

Robert J. Hoglund
Hoglund, Chwialkowski, Greeman &
Bergmanis
P.O. Box 130938
Roseville, MN 55113

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

FULLER, SEAVER & RAMETTE, P.A.

Dated: October 5, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
Legal Secretary
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-44141

In re:

Thomas P. Harrigan and Juliana C.
Harrigan,

ORDER

Debtors.

At Minneapolis, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the motion of the Chapter 7 Trustee for an award of sanctions against the Debtor and his attorney and on the Trustee's objection to claimed exemptions of the Debtor. Appearances were as noted upon the record.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED that the Debtor's claimed exemption of a riding lawnmower and snow blower are denied.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge